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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,814	10/24/2001	Joseph H. Bartozzi		5922

27804 7590 09/08/2003

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EXAMINER

THOMSON, MICHELLE R

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/998,814	<b>Applicant(s)</b> BARTOZZI ET AL.	
	<b>Examiner</b> Michelle (Shelley) Thomson	<b>Art Unit</b> 3641	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 17 June 2003.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) 1-10 and 16-21 is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 11-14 is/are rejected.

7) ☒ Claim(s) 15 is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All   b) ☐ Some \*   c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other:

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments filed 6/17/03 have been fully considered but they are not persuasive. In response to applicant's assertion that Blanck discloses a "locking device" and not the claimed "blocking device" it is noted that Webster's New Riverside University Dictionary defines "blocking" as "To stop or impede the passage of or movement through: OBSTRUCT", it is evident that the "locking device" of Blanck stops or impedes the passage of or movement of the bolt through the receiver. Applicant has not defined "blocking" to mean anything other than it's normally accepted meaning, applicant continually refers to "blocking" and "locking" in the alternative, and applicant discloses the claimed device so that when the locking device is located, the plunger is extended and "blocks or restrictively engages" some portion of the action.

Furthermore, applicant discloses that the pin portion of the present locking device cooperates with a receiver lock pin hole provided in the receiver (Figure 3A, and paragraph 44), it is not clear to the examiner how this is different than Blanck's disclosed locking device in which a lock cam (plunger) is extended and restrictively engages the bolt (a portion of the action).

2. In response to applicant's arguments that the device of Blanck requires a stock for proper mounting which is different than the present invention that can be attached directly to the receiver without a stock, it is noted that the features upon which applicant relies (i.e., the device attached *only* to the receiver and no other firearm portion) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Art Unit: 3641

3. In response to applicant's argument asserting that Blanck does not disclose the blocking means being position so that the action must be fully open for the blocking device to be engaged, it is noted that Blanck discloses that the aperture may be located at *any point* along the length of the bolt and is *preferably* located so that the bolt is not fully drawn (i.e. the bolt is not removed from the action) (column 7, lines 8-41).
4. It is noted that there are no remarks and arguments submitted by the applicant in regard to the rejection concerning the Plebani reference except those as applied to Blanck above. The applicant's acquiescence is so noted.
5. Applicant's arguments with respect to the da Silveira reference have been fully considered and are persuasive. The obviousness rejection of claim 15 has been withdrawn.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanck (US Patent # 5,465,519). Blanck discloses a firearm comprising a receiver (reference 3), a bolt (portion of the action) (reference 6) attached to the receiver and an integral lock assembly (blocking means) (lock device) (reference 7), which interferes (i.e. blocks the path of travel) with a portion of the action when actuated, attached to the receiver, to prevent the firearm from being fired, wherein the lock means can only be actuated when the action is in an open position (column 7, lines 5-15) and cannot be accessed internally (column 7, lines 35-41). The lock

Art Unit: 3641

assembly is a plunger lock (reference 19) comprising a lock body attached to the receiver (Figures 2, 3, 14, 15, 16 and 17; and column 6, lines 41-45) and having an axial bore, a cam (lock plunger) (references 23 and 24') disposed in the axial bore, and a lock key (reference 21) configured to engage an end of the plunger accessible from an exterior of the firearm (Figure 2). Although Blanck does not expressly disclose that the blocking means can only be actuated when the action is in a fully open position, Blanck discloses that the aperture can be located at any point along the length of the portion of the action (i.e. it could be located in a position so that the cam could only be actuated when the bolt was in a fully opened position).

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blank as applied to claim 13 above, and further in view of Plebani (US Patent # 5,867,928). Although Blank does not expressly disclose the locking device interfering with the elevator, Plebani does. Plebani teaches a safety device that locks the breech-block slide (action) in the open position by interfering with the cartridge lifting device (reference 11) for double safety (column 4, line 16). Blanck and Plebani are analogous art because they are from the same field of endeavor: firearm locks. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the safety device interfering with the cartridge lifting device as taught by Plebani with the locking assembly of Blanck. The suggestion/motivation for doing so would have been to obtain a firearm with that was double safe.

***Allowable Subject Matter***

9. Claim 15 is objected to as being dependent upon a rejected base claim, but would possibly be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

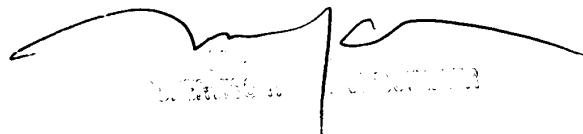
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Thomson whose telephone number is 703.306.4176. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

mrt



Michelle (Shelley) Thomson